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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,062	09/26/2003	Eric L. Toussant	1884-0002	9292

28078 7590 05/11/2004

MAGINOT, ADDISON & BOWMAN
BANK ONE CENTER/TOWER
1111 MONUMENT CIRCLE
SUITE 3000
INDIANAPOLIS, IN 46204

EXAMINER

MILLER, WILLIAM L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,062

Applicant(s)

TOUSSANT ET AL.

Examiner

William L. Miller

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09262003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

1. The declaration claims priority under 35 U.S.C. 119(e) for design application No. 29/167,324, however the claim for priority should be made under 35 U.S.C. 120 as 35 U.S.C. 119(e) pertains to provisional applications. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claims 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 7, the dependency of the claim is unknown. For examination purposes, claim 7 is assumed to depend directly from claim 1.
4. Regarding claim 8, lines 5-6, the phrase "similar chemicals" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "similar"), thereby rendering the scope of the claim unascertainable.
5. Regarding claim 8, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carr et al. (US#D443971) in view of Stanley (US#2002/0157294).

8. Regarding claims 1 and 8, Carr discloses ornamentation for a mailbox door having a perimeter shape, the ornamentation comprising a graphic display on the door.

9. Carr fails to disclose the graphic display being provided on a front surface of a flexible sheet of material wherein the material has an affinity for the door so that the sheet can be removably attached to the door without adhesive or mechanical fasteners as claimed by the applicant. Stanley discloses a graphic display 25 being provided on a front surface of a flexible sheet of material 24 having an affinity for a door 17 or 23 so that the sheet can be removably attached to the door without adhesive or mechanical fasteners thereby facilitating changing the ornamentation of the door without marring its surface. Therefore, as taught by Stanley, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Carr by utilizing a flexible sheet of material having the graphic display on the front surface thereof wherein the material has an affinity for the door so that the sheet can be removably attached to the door without adhesive or mechanical fasteners thereby facilitating changing the ornamentation of the door without marring its surface.

10. Although Carr in view of Stanley fails to disclose the perimeter of the flexible sheet being configured to substantially conform to the perimeter shape of the door, it would have been an obvious design choice to utilize a flexible sheet having a perimeter configured to substantially conform to the perimeter shape of the door as a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

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11. Regarding claims 2 and 10, Stanley teaches the flexible sheet is magnetic.
12. Regarding claims 3 and 9, Stanley teaches the flexible sheet includes a contact surface (rear surface) opposite the front surface wherein the material exhibits a magnetic affinity only on the contact surface (abstract, lines 1-7).
13. Regarding claim 7, Carr discloses the door includes a peripheral rib, as best shown in Figs. 6 and 8, which defines a recessed surface therewithin, and this recessed surface includes the graphic display thereon wherein according to the figures has a thickness less than the rib height. Further, the flexible sheet taught by Stanley is disclosed as 0.020 gauge and would also have a thickness less than the rib height shown in Figs. 6 and 8 of Carr.
14. Claims 1, 4, 5, 7, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carr in view of Saetre (US#5102171).
15. Regarding claims 1 and 8, Carr discloses ornamentation for a mailbox door having a perimeter shape, the ornamentation comprising a graphic display on the door.
16. Carr fails to disclose the graphic display being provided on a front surface of a flexible sheet of material wherein the material has an affinity for the door so that the sheet can be removably attached to the door without adhesive or mechanical fasteners as claimed by the applicant. Saetre discloses a graphic display being provided on a front surface of a flexible sheet of material 120 having an affinity for a door 40 or 42 so that the sheet can be removably attached to the door without adhesive or mechanical fasteners thereby facilitating changing the ornamentation of the door without marring its surface. Therefore, as taught by Saetre, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

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modify Carr by utilizing a flexible sheet of material having the graphic display on the front surface thereof wherein the material has an affinity for the door so that the sheet can be removably attached to the door without adhesive or mechanical fasteners thereby facilitating changing the ornamentation of the door without marring its surface.

17. Although Carr in view of Saetre fails to disclose the perimeter of the flexible sheet being configured to substantially conform to the perimeter shape of the door, it would have been an obvious design choice to utilize a flexible sheet having a perimeter configured to substantially conform to the perimeter shape of the door as a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

18. Regarding claims 4, 5, and 11, Saetre teaches the material exhibits an electrostatic or static cling affinity (abstract).

19. Regarding claim 7, Carr discloses the door includes a peripheral rib, as best shown in Figs. 6 and 8, which defines a recessed surface therewithin, and this recessed surface includes the graphic display thereon wherein according to the figures has a thickness less than the rib height. Further, the flexible sheet taught by Saetre is shown and disclosed as a thin sheet and would also have a thickness less than the rib height shown in Figs. 6 and 8 of Carr.

Allowable Subject Matter

20. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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21. The following is a statement of reasons for the indication of allowable subject matter: Granger (US#5035356) discloses a cover 28 for a mailbox door wherein the perimeter of the cover defines a notch corresponding to the location of a latch 17 on the mailbox door, however it would not have been obvious to one of ordinary skill in the art to modify the modifying references of Stanley or Saetre such that the flexible sheet defined a notch corresponding to the location of a latch on the Carr mailbox door.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is 703 305 3978. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

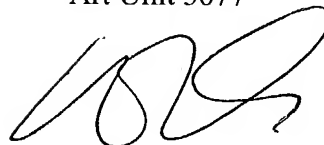
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William L. Miller
Primary Examiner
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WLM
05-05-2004

A handwritten signature in black ink, appearing to be 'WLM', located below the printed name of William L. Miller.